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ROCHE DIAGNOSTICS CORPORATION
9115 HAGUE ROAD, BLDG. D
P.O BOX 50457
INDIANAPOLIS, IN 46250-0457

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**OFFICE OF PETITIONS
A/C PATENTS**

In re Application of
Emrich et al.
Application No. 09/284,787
Filed: August 16, 1999
Attorney Docket No. BMID 9913 US

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed on March 22, 2001, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on September 5, 2000 for failure to timely respond to the Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures ("Notice to Comply"), mailed on August 4, 2000, which set a one (1)-month reply period. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. A Notice of Abandonment was mailed on March 20, 2001.

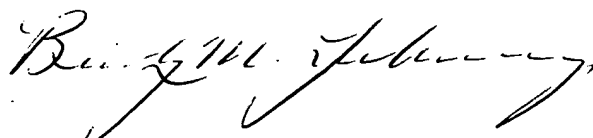
The instant petition includes a reply to the above Notice to Comply, namely, a "Sequence Listing" as required by 37 CFR 1.821(c), a copy of the "Sequence Listing" in computer readable form as required by 37 CFR 1.821(e), and a statement in accordance with 37 CFR 1.821(f) that the content of the paper and the computer readable copies of the "Sequence Listing" are the same. Also included in the instant petition is a statement that the entire delay from the due date of the required reply to the date of the filing of a grantable petition was unintentional as required by 37 CFR 1.137(b)(3).

The petition fee of \$1,240 has been charged to Petitioner's Deposit Account No. 02-2958 as authorized in the instant petition. Although Petitioner also authorized the charge of \$1,890 to cover the fee for extension of time to respond to the Notice to Comply, an extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the request for extension of time submitted with the instant petition was subsequent to the maximum extendable period for reply, this fee is unnecessary and Petitioner's deposit account has not been charged for the amount of \$1,890.

In response to the September 18, 2000 Power of Attorney, also enclosed with the instant petition, two additional attorneys, Kenneth J. Waite and Jill L. Woodburn, have been added to Petitioner's list of registered practitioners. Furthermore, Petitioner's correspondence address has been corrected to include "PO Box 50457."

This application is being forwarded to Technology Center 1645 for further examination.

Telephone inquiries concerning this matter may be directed to Petitions Attorney RC Tang at (703) 308-0763.



Beverly M. Flanagan
Supervisory Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy